

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	
Clifton Lind et al.)	
)	Examiner: Corbett B. Coburn
Serial No.: 10/808,914)	
)	
Filed: March 25, 2004)	Group Art Unit: 3714
)	
FOR: AUTOMATIC DAUBING)	
APPARATUS AND METHOD FOR)	Confirmation No.: 8059
ELECTRONIC BINGO GAMING)	
SYSTEMS)	

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Commissioner for Patents
P.O. Box 1450
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APPELLANTS' REPLY BRIEF

This Reply Brief is filed pursuant to 37 C.F.R. §41.41 in response to the Examiner's Answer mailed May 29, 2008, regarding the above-identified application. Appellants submit this Reply Brief within the two-month period following the mailing of the Examiner's Answer.

1 **ARGUMENT**

2 Claims 2, 3, 7-9, and 12-19 stand rejected under 35 U.S.C. §112, first paragraph, as
3 failing to comply with the written description requirement.

4 Claims 2, 3, 7-9, and 12-19 stand rejected under 35 U.S.C. §102(b) as being anticipated
5 by U.S. Patent No. 4,856,787 to Itkis (the “Itkis patent”).

6 In view of the Examiner’s Answer (the “Answer”) mailed May 29, 2008, the Appellants
7 maintain all of the arguments stated in the Appeal Brief filed February 19, 2008. In particular,
8 the Appellants believe that (1) the requirement in the claims that the automatic daub input is a
9 separate input entered after the game play request is enabled in accordance with 35 U.S.C. §112,
10 first paragraph; and (2) the Itkis patent does not include each element set out in the claims and
11 therefore does not anticipate the claims under 35 U.S.C. §102(b).

12 The Appellants submit the following arguments in response to comments appearing in the
13 Answer.
14

- 15 I. THE DISCLOSURE IN THE PRESENT APPLICATION AT FIGURE 9 AND THE
16 DISCUSSION FROM PAGE 24, LINE 11 TO PAGE 25, LINE 2 REGARDING THE
17 PROCESS STEPS SHOWN IN FIGURE 9 SUPPORT THE LIMITATION IN THE
18 PRESENT CLAIMS THAT THE AUTOMATIC DAUB INPUT MAY COMPRISE A
19 SEPARATE INPUT ENTERED AFTER THE GAME PLAY REQUEST.

20 The Answer continues to focus on a single embodiment regarding the timing and nature
21 of an automatic daub input disclosed in the present application and fails to consider the
22 alternative embodiments set out in the application. In particular, the Answer fails to consider the
23 explicit connection between the sequence of steps shown in Figure 9 and the discussion of those
24 steps set out in the application. The paragraph in the present application beginning at page 24,

line 11 begins a discussion of the variations that are possible for receiving and displaying results associated with a game play record as indicated at process block 96 in Figure 9. In the first example, the player station receives sufficient information to display the game card associated with the game play record (Present Application, p. 24, ll. 13-14). The disclosure then goes on to describe options for daubing the bingo card.

A player at the player station may manually daub his or her bingo card or cards using a touch screen display or some other user interface at the player station. Alternatively, the player stations 40 may include a control that automatically daubs the player's card(s) in response to some automatic daub input entered at the player station. (Present Application, p. 24, l. 20 to p. 25, l. 2)

In the next paragraph, the application goes on to describe an alternative to daubing the card at the player station.

Alternatively to daubing the card representation at player station 40, the player may rely on the matching of designations performed in the back office system (12 in Figures 1 and 3). In this mode of play, the request for a play entered by the player at player station 40 represents a request for automatic daubing. Since no daubing is required at player station 40, the data communicated from the central computer 34 to the player station 40 need only include a result indicator containing information on whether the corresponding bingo card representation produced a winning or losing pattern when matched with the respective game designation set. However, it may be desirable to still send to player station 40 information necessary to allow the player station to produce a graphical representation of the respective matched bingo card. (Present Application, p. 25, ll. 3-11).

It should be noted that one must have a representation of their card at the player station in order to daub the card at the player station as described in the first paragraph quoted above. Otherwise there is simply nothing for the player or the player station to daub. Figure 9 clearly shows that the player station receives the game card after the game play request is entered. Because the player station receives the game card only after the player makes their game play request, a player

1 can manually daub their card at the player station only by making manual daub inputs that
2 necessarily must be entered after the game play request (necessarily after the game play request
3 because the card only becomes available to daub at the player station after the game play
4 request). Similarly, the player station may daub the player's card in response to an automatic
5 daub input at the player station only if the player station has some card to daub, and the player
6 station only has a card to daub **after** the game play request. In this light the automatic daub input
7 referenced in the first paragraph quoted above can only be an input entered after the game play
8 request and thus separate from the game play request. The first paragraph quoted above,
9 considered along with the sequence of steps shown in Figure 9, simply admits of no other
10 reasonable interpretation. How could the player's card be daubed at the player station **in**
11 **response to** an automatic daub input at the player station without the player's card having
12 already been received at the player station due to an earlier game play request?

13 The Appellants further note that the second paragraph quoted above, the paragraph relied
14 upon for supporting the enablement rejection, specifically refers to an alternative to daubing the
15 card at the player station, that is, an alternative to the methods for daubing at the player station
16 set out in the preceding paragraph. The disclosure in the second paragraph quoted above that the
17 game play request represents a request for automatic daubing was made in order to distinguish
18 the player station daubing set forth in the preceding paragraph and in which the manual daub
19 inputs and automatic daub input necessarily must be separate from the game play request (again
20 because otherwise there is simply nothing to daub at the player station).

21 In view of the above comments and the comments set forth in section VII. A. of the
22 Appellants' Brief, the Appellants believe that the claim limitation that the automatic daub input

1 is a separate input after the game play request is properly supported by the disclosure. The
2 Appellants therefore respectfully submit that the rejections under 35 U.S.C. §112, first paragraph,
3 are in error and should be reversed.
4

5 II. CLAIMS 2, 3, 7-9, AND 12-19 ARE NOT ANTICIPATED BY THE ITKIS PATENT

6 A. THE CITED PORTIONS OF THE ITKIS PATENT DO NOT SUPPORT THE
7 ANTICIPATION REJECTIONS.

8 Before addressing the new rationale for the anticipation rejections set forth in the Answer
9 at pages 6-8, the Appellants would like to reiterate the fundamental errors in the anticipation
10 rejections that are repeated in the Answer.

11 1. The anticipation rejections rely on the abstract in the Itkis patent for disclosing the step or
12 function of assigning a respective game play record from a matched card set as required at
13 elements (d) of claims 16 and 18, and element (c) of claim 19 (See Answer at p. 4, II. 13-
14 15). A matched card set is described in the appealed claims as including a number of
15 game play records, each game play record corresponding to a respective bingo card
16 representation and including a result indicator indicating a result of a match between the
17 respective bingo card representation and a set of game designations (element (c) of claims
18 16 and 18, and element (a) of claim 19). However, the abstract of the Itkis patent simply
19 does not disclose the required assignment of a game play record from a matched card set.
20 In fact the abstract of the Itkis patent merely discloses that the slave devices in the Itkis
21 system receives “commands and random data, such as bingo patterns and called bingo
22 and keno numbers, from the master game device.” Obviously, called bingo numbers

cannot represent an assignment of a game play record from a matched card set. Also, a bingo pattern, that is, the pattern defined as the winning pattern for the bingo game cannot represent an assignment of a game play record from a matched card set (note “bingo pattern” is described in the Itkis patent at col. 3, line 54-58 in reference to reference numeral 23 shown in Figure 4). Because the Itkis patent does not disclose the game play record assignment required in the present claims, the anticipation rejections in view of the Itkis patent are in error and should be reversed.

2. The rejections in view of the Itkis patent rely on the disclosure at col. 5, lines 15-23 of that patent as disclosing the matched card set storage apparatus required at element (c) of claims 16 and 18, and the matched card set storage step required at element (a) of claim 19. This disclosure from the Itkis patent speaks for itself, and is devoid of anything that could be considered a number of game play records, each game play record corresponding to a respective bingo card representation and including a result indicator indicating a result of a match between the respective bingo card representation and a set of game designations (element (c) of claims 16 and 18, and element (a) of claim 19). The disclosure at col. 5, lines 15-28 of the Itkis patent simply indicates that slave game device 7 writes to smart card 42 the outcomes of the player's bets and reads from smart card microprocessor 43 the player's current account balance and the game card identification number. There is no disclosure here of a number of game play records each associated with a bingo card representation and including a result indicator. Because the Itkis patent does not disclose the matched card set storage apparatus or step required in the present

claims, the anticipation rejections in view of the Itkis patent are in error and should be reversed.

3. The rejections in view of the Itkis patent rely on the selection of the “Automatic Bingo” option in the Itkis system as representing an automatic daub input as set out in the present claims, and appears to rely on the entry of the bingo card identification number as the game play request (Answer, p. 4, ll. 3-7 (citing Itkis at col. 4, ll. 47-54)). However, this disclosure from Itkis indicates that the bingo card identification numbers are added when the game is already in the automatic mode. Thus, if entering the bingo card identification numbers represents a game play request and the selection of the “Automatic Bingo” mode is an automatic daub input, then Itkis discloses that the game play requests (bingo card IDs) are entered after the automatic daub input (selection of “Automatic Bingo” mode). This is contrary to the requirements of the present claims which specify that the automatic daub input is a separate input after entry of the game play request (element (b) of claims 16 and 18, and element (d) of claim 19). Because the Itkis patent does not disclose the user interface arrangement and automatic daub input step required in the present claims, the anticipation rejections in view of the Itkis patent are in error and should be reversed.

Finally, the Appellants note the comment in the Answer at page 6, lines 16 through 19. The Appellants believe the language of the claims is clear, and the Appellants have endeavored to point out the differences between the claim requirements and the system disclosed in the Itkis patent. Appellants’ claims do not merely require keeping track of all transactions including bets and outcomes of games and storing bingo card contents as set out at the Itkis patent at col. 5,

lines 15-28. Rather, Appellants' claims require storing particular information in a particular way.

Specifically, the claims require storing

a matched card set, the matched card set including a number of game play records, each game play record corresponding to a respective bingo card representation and including a result indicator indicating a result of a match between the respective bingo card representation and a set of game designations (e.g. claim 16, element (c)).

The Itkis patent simply does not disclose either storing such a card set or assigning game play records from the card set in response to a game play request.

B. THE NEW ANTICIPATION REJECTION RATIONALE SET OUT IN THE ANSWER DOES NOT CURE THE DEFECTS OF THE ORIGINAL RATIONALE SET OUT IN THE FINAL OFFICE ACTION AND REPEATED IN THE ANSWER.

The Appellants note the discussion in the Answer regarding the meaning of the designation "result indicator" beginning at the bottom of page 6 and running through to the bottom of page 8. The Appellants respectfully disagree that present application does not adequately define the designation "result indicator." The present application includes the following disclosure regarding the meaning of this designation.

Each play record may include at least a card identifier for the respective bingo card representation, and a result indicator which indicates the result of the game play record, that is, the result of the match between the game designation set and the card designations. (p. 15, l. 21 to p. 16, l. 3)

If the request is valid, the respective central computer assigns a game play record from the appropriate matched card set to the requesting player as shown at process block 67 in Figure 7. Sufficient data is then communicated back to the device through which the game play request was initiated to allow the player station to display the appropriate result representation and thereby give the player the results of the game play. **This data includes a result indicator which may comprise as much as data sufficient to define the bingo card representation corresponding to the assigned game play record together with the matches**

1 **made in the matching step 65, or as little as a code for indicating the result.**
2 Regardless of the manner in which the game play result is communicated to the
3 player, the method includes the step of displaying the result representation
4 correlated with the game play result to the player as shown at step 68. (p. 18, ll.
5 10-20, discussing the process shown in Figure 7, emphasis added).

6 Thus the Appellants submit that the application does indeed disclose what the “result indicator”
7 may comprise.

8 Furthermore, regardless of whether the result indicator comprises a code indicating
9 whether the particular bingo card representation produces a winning or losing pattern when
10 matched to the game designation set, or whether the result indicator comprises a definition for
11 the card representation and the called bingo numbers matched to the card, the Itkis patent does
12 not disclose storing a matched card set as defined in the present claims and also does not disclose
13 the step of assigning a respective game play record from a stored matched card set to the player
14 station in response to receiving the game play request communication as required in claim 19.
15 The Itkis patent also does not disclose apparatus for performing this step as required in claims 16
16 and 18. The Appellants refer to the discussion set out at A. 1. and A. 2. above regarding the
17 failure of the Itkis patent to disclose the matched card set storage and game play record
18 assignment.

19 It is important to note that the Appellants strongly disagree with the statement made in the
20 Answer at page 7, lines 18 through 20. The cited portion of the Appellants’ Brief (p. 11, ll. 24-
21 26) does not admit that the Itkis patent discloses that some “back office” device sends bingo card
22 representations to slave devices 7 in Itkis. Rather, that statement in the Appellants’ Brief refers
23 to disclosure in Itkis that the master game device in that patent transmits the **bingo pattern** for a
24 game and the called numbers to the slave game device. The “bingo pattern” is shown at

1 reference numeral 23 in Figure 4 of Itkis and represents the bingo pattern that defines a win, not a
2 bingo card definition. The Itkis patent does not disclose transmitting bingo card definitions from
3 master device 1 to slave devices 7 in any fashion.

4 Because the Itkis patent does not disclose transmitting any bingo card definition to the
5 slave terminals, the Appellants disagree with the conclusions set out in the Answer at page 8,
6 lines 7-8 and lines 16-18. Furthermore, even if the Itkis patent did include such disclosure, that
7 in itself or taken with the rest of the disclosure in Itkis would not amount to a storage of a
8 matched card set or assignment of a game play record from the matched card set as required in
9 the present claims.

10 For all of these reasons the Appellants respectfully submit that the rejections under 35
11 U.S.C. §102(b) are all in error and should be reversed.

12
13 III. THE COMMENTS IN THE ANSWER FROM PAGE 8, LINE 21 TO PAGE 9, LINE 9

14 In response to the comments in the Answer from page 8, line 21 to page 9, line 9, the
15 Appellants note that the present claims clearly require apparatus for assigning a respective **game**
16 **play record from the matched card set** to the player station **in response to the game play**
17 **request** communication (element (d) of claims 16 and 18). Element (c) of claim 19 requires a
18 similar method step. If the Examiner believes there are additional grounds for rejecting the
19 present claims, these additional rejections should have already been made. In any event, any
20 proposed combination of references used to form an obviousness rejection must be supported by
21 some apparent reason in the prior art to make the combination. *See KSR Int'l Co. V. Teleflex*
22 *Inc.*, ___ U.S. ___ ; 82 U.S.P.Q.2d 1385, 1396 (2007).

1 IV. CONCLUSION

2 For all of these reasons, and for the reasons stated in the Appellants' Brief, the Appellants
3 submit that claims 2, 3, 7-9, and 12-19 are not indefinite under 35 U.S.C. §112, first paragraph,
4 and are not anticipated by the Itkis patent. The Appellants therefore respectfully request that the
5 Board reverse these rejections.

6 Respectfully submitted,

7 The Culbertson Group, P.C.

8
9 Date:

29 July 2008

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